CJ strategies LLC

MEMORANDUM

TO: Dennis Fay
Alameda County Congestion Management Agency
FROM: CJ Strategies
RE: Legislative Update
DATE: May 28, 2009

Congress will return from the Memorial Day recess on June 1. We expect the House Appropriations Subcommittees to begin mark-ups of its FY10 appropriations bills and the House Transportation and Infrastructure Committee to mark up its surface transportation authorization bill in June.

Surface Transportation Reauthorization

The House Transportation & Infrastructure (T&I) Committee continues to work on moving the reauthorization of SAFETEA-LU forward. However, mark up has been pushed to the second or third week of June. Chairman Oberstar is intent on meeting the September 30th expiration deadline. We expect Ways and Means to hold hearings on infrastructure financing during the month of June.

Climate Change

The House Energy and Commerce Committee approved H.R. 2454 – the American Clean Energy and Security Act (ACESA) on May 21 by a 33-25 vote (One Republican supported – Connie Bono-Mack (R-CA) and four Democrats opposed).

The legislation would cap greenhouse gas emissions and require the use of more renewable electricity. To meet the bill's cap on greenhouse gas emissions, businesses could either reduce pollution or buy allowances from other companies. The bill would give away the vast majority of emissions allowances to industries and states, in a departure from President Obama's proposal to auction them.

The bill in its current form does not list local governments nor does it list public transit as recipients of allowances. ACESA includes language that would establish emission reductions goals for the transportation sector (Sec. 222, Greenhouse Gas Emissions Reductions Through Transportation Efficiency), but no funding is made available from the bill's proposed cap-and-trade system to finance transportation investments that reduce emissions. However, during the mark-up, Chairman Waxman did say he would work to provide funding for Section 222.

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The bill was referred to eight other committees besides Energy and Commerce. Details on how the legislation will make its way through every one of those committees remain unclear since several of the committee's leaders have previously said they did not know how they would approach climate legislation.

The bill will likely go to the full House in June or July.

Below is a breakdown of the major components of the committee-approved bill:

Clean Energy

Renewables

- Requires retail electric suppliers to obtain 20 percent of their power from renewable sources by 2020.
- One quarter of that mandate can be met through increased energy efficiency rather than the use of renewables.
- States can petition to meet a standard of as low as 12 percent for renewables combined with 8 percent for efficiency.

Carbon storage

- Authorizes electric companies to create a "carbon storage research corporation," funded at about $1 billion annually through a consumer fee.
- The corporation would fund research on capturing and sequestering carbon from coal-fired power plants. New coal-fired plants would also have to meet emissions performance standards set by the EPA.

Construction

- Directs the Secretary of Energy to support building codes that will achieve 50 percent higher efficiency in 2016
- Authorizes funding for states to retrofit existing buildings.
- Allows consumer rebates of up to $7,500 for the purchase of efficient new homes, certified by the government's "Energy Star" program.

Loan guarantees

- Creates a Department of Energy program to issue loan guarantees for companies that deploy new energy technologies that reduce greenhouse gases, including advanced nuclear plants.
- No more than 30 percent of the funds could go toward a single technology.

Efficiency standards

- Sets new standards for outdoor lighting fixtures and indoor appliances.
- Changes the procedures for the DOE to set future efficiency standards.

Global Warming

Emissions

- Requires covered entities to reduce greenhouse gas emissions 17 percent by 2020, 42 percent by 2030 and 83 percent by 2050.
- Covered entities include electricity generators; liquid fuel refiners and importers; fluorinated gas manufacturers; large industrial sources; and local natural gas distribution companies.
- Directs the EPA and the National Academy of Sciences to review the science of climate change and the progress toward meeting these reduction goals every four years.

- Allows entities to reduce up to 2 billion tons of emissions through special projects, such as planting trees to sequester carbon. Half of these projects would be domestic and half international

Pollution allowances

- The EPA would set pollution allowances equal to the tonnage limit for each year.
- Entities would meet their limits either by reducing pollution or by purchasing allowances from other businesses.
- Banking and borrowing of allowances would be permitted.
- In the early years of the program, the EPA would sell approximately15 percent of the allowances at an auction. The rest would be distributed to industry free of charge, but a greater percentage of the allowances would be auctioned in future decades.
- The EPA would release allowances from a "strategic reserve" if prices are unexpectedly high.

Regulation

- The Federal Energy Regulatory Commission would regulate the market for allowances.
- The Commodity Futures Trading Commission would have default authority to regulate derivatives.

Other standards

- The EPA would set greenhouse gas performance standards for certain sources that are not subject to the annual emissions limit.
- Hydrofluorocarbons would be phased out under a separate schedule from other greenhouse gases.

Protection

- Directs the EPA to identify manufacturing facilities eligible to receive allowances to protect them from international competition.
- The president would review whether to continue this program beginning in 2022.

Tax credits

- Provides tax credits and refunds to low-income households to compensate for any higher energy costs.

New institutions and funds

- Creates a National Climate Service within the National Oceanic and Atmospheric Administration, which would distribute climate forecasts and related information to state and local decision makers.
- Establishes a science advisory board on the health effects of climate change.
- Sets up a panel to develop strategies on the impact of climate change on natural resources.
- Establishes an international climate change adaptation fund within the U.S. Agency for International Development.
- Sets up an account to fund deployment of clean energy technologies in developing countries.

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